

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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| UNITED STATES OF AMERICA | : | CRIMINAL NO. 1:15-CR-3 |
| | : | |
| v. | : | (Chief Judge Conner) |
| | : | |
| ANTHONY F. D'AMBROSIO (2), | : | |
| | : | |
| Defendant | : | |

ORDER

AND NOW, this 12th day of August, 2019, upon consideration of the motions (Docs. 477, 595, 604) for post-trial relief filed by defendant Anthony F. D'Ambrosio ("D'Ambrosio"), and in accordance with the accompanying memorandum, it is hereby ORDERED that:

1. D'Ambrosio's motion (Doc. 477) for judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29 is GRANTED in part and DENIED in part. Judgment of acquittal shall be entered on Count 5 of the superseding indictment (Doc. 23). The motion for judgment of acquittal is DENIED in all other respects.
2. D'Ambrosio's motions (Docs. 477, 595) for a new trial pursuant to Federal Rule of Criminal Procedure 33 are DENIED except for the claims asserting ineffective assistance of counsel. A decision on those claims is DEFERRED until an evidentiary hearing is held, which hearing shall be scheduled by further order.
3. D'Ambrosio's motion (Doc. 595) for arrest of judgment under Federal Rule of Criminal Procedure 34 is DENIED.

4. D'Ambrosio's second supplemental motion (Doc. 604) "for judgment of acquittal and/or . . . a new trial" is GRANTED in part and DENIED in part. D'Ambrosio's conviction on Count 1 is REVERSED due to constructive amendment of the superseding indictment. The government shall promptly notify the court—no later than fourteen (14) days from the date of this order—in the event that it intends to retry D'Ambrosio on Count 1.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania